

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE ATTORNEY GENERAL



ATTORNEY GENERAL
KARL A. RACINE

Legal Counsel Division

August 10, 2015

Gottlieb Simon
Executive Director
Office of Advisory Neighborhood Commissions
1350 Pennsylvania Ave., N.W.
Washington, D.C. 20004

Re: Applicability of Home Rule Open Meetings Provision to ANCs

Dear Mr. Simon:

You asked us whether section 742(b) of the District of Columbia Home Rule Act,¹ which requires many District government bodies to keep transcripts or transcriptions of meetings involving official business, applies to Advisory Neighborhood Commissions (“ANCs”).² If so, you asked whether an ANC could satisfy that provision *via* audio recordings of its meetings. The answer to both questions is yes.

1. ANC’s Are Subject to the Requirements of Section 742 of the Home Rule Act that ANC Meetings be Open to the Public and be Transcribed.

Section 742 of the Home Rule Act establishes two requirements for “meetings of any department, agency, board or commission . . . at which official action of any kind is taken.” Subsection (a) mandates that these meetings be “open to the public,” and the Council-enacted ANC Act explicitly requires ANCs to obey that requirement.³ Subsection (b) of section 742, requires that “written transcript[s] or transcription[s]” of meetings be “made available to the public during normal business hours of the District government.” Although the ANC Act does

¹ Approved December 24, 1973 (87 Stat. 831; D.C. Official Code § 1-207.42(b) (2012 Repl.)).

² You noted that an earlier letter from this office had noted without discussion that section 742(b) did apply to ANC’s and requested confirmation that this is correct. *See* Letter from Jason Lederstein, Assistant Attorney General, to Yvonne Jefferson, ANC 4B Chair, May 27, 2011 (attached).

³ Advisory Neighborhood Commissions Act of 1975 (“ANC Act”), § 14, effective March 26, 1976 (D.C. Law 1-58; D.C. Official Code § 1-309.11(g) (2012 Repl.)) (“Each Commission, including each committee of a Commission, shall be subject to the open meetings provisions of [section 742(a) of the Home Rule Act]”).

not explicitly incorporate the requirement that meetings be transcribed, as discussed below, section 742 is applicable to ANCs.⁴

The Home Rule Act does not define “commission,” and District and federal law at that time did not define the term. To determine its meaning, we examined its ordinary meaning.⁵ The Fifth Edition of Black’s Law Dictionary, published in 1979, defined a commission as a “board or committee officially appointed to perform certain acts or exercise certain jurisdiction of a public nature or relation.” Likewise, Webster’s II New Collegiate Dictionary (1981) defined a commission broadly as a “group of persons directed to perform some duty.” Based on these definitions, ANCs are commissions. Each ANC is a group of government officials established by law to carry out certain advisory functions.⁶

Giving the term “commission” its natural meaning, which includes ANCs, is consistent with the Council’s own decision in 1975 to change the name of ANCs from advisory neighborhood councils to advisory neighborhood commissions.⁷ It also dovetails with the purposes underlying section 742. The Home Rule Act’s legislative history contains little discussion of that provision, but its manifest purpose was to bring significant government proceedings into the public eye. Because the Home Rule Act empowered ANCs to conduct programs in the neighborhood area using public funds,⁸ concluding that ANCs are commissions serves Congress’s purposes by ensuring that ANC operations face public scrutiny.

ANCs are subject to section 742(b) because each ANC is a commission. As a result, each ANC must keep a “written transcript or transcription” for every meeting in which it takes official action, and must make “copies of such written transcripts or copies of such transcriptions” available to the public.

2. ANC’s Can Satisfy the Requirements of Section 742(b) by Keeping Audio Recordings of Meetings

An ANC can satisfy section 742(b) by keeping audio recordings of each of its meetings, because an audio recording is a “transcription” within the meaning of section 742(b). Contemporary definitions make that clear. For example, Webster’s II New Collegiate Dictionary (1981) defines a transcription to include an “electronic transcription,” *i.e.*, a “phonograph record or tape recording especially designed for use in radio broadcasting.” Reading the word “transcription” in its statutory context yields the same conclusion. Section 742(b) requires an ANC to keep and

⁴ It may seem self-evident that an “advisory neighborhood commission” is a “commission,” but the Home Rule Act did not originally designate ANCs as “advisory neighborhood commissions.” It labeled them “advisory neighborhood *councils*.” See Home Rule Act, § 738 (87 Stat. 824).

⁵ See *Carcieri v. Salazar*, 555 U.S. 379, 388 (2009) (if the “statutory text is plain and unambiguous,” we must “apply the statute according to its terms”); *Gonzalez v. Carhart*, 550 U.S. 124, 152 (2007) (“In interpreting statutory text courts use the ordinary meaning of terms unless context requires a different result”).

⁶ See *Kopff v. Alcoholic Beverage Control Bd.*, 381 A.2d 1372, 1376 (1978) (“the role of the ANCs is ‘advisory,’ as their very name suggests”).

⁷ See Advisory Neighborhood Commissions Act, effective October 30, 1975 (D.C. Law 1-21; 22 DCR 2470).

⁸ See Home Rule Act, § 738(c)(2) and (e) (87 Stat. 824-825).

share either a “*written* transcript” or a “transcription.” The plain implication is that a transcription need not be a written document, but can be an audio recording.⁹

If you have any questions, please contact Josh Turner, Assistant Attorney General, at 442-9834, or Janet M. Robins, Deputy Attorney General, Legal Counsel Division, at 724-5524.

Sincerely,

KARL A. RACINE
Attorney General for the District of Columbia

By: 
JOSHUA TURNER
Assistant Attorney General
Legal Counsel Division

(AL-15-451 B)

⁹ See H. COMM. ON THE DIST. OF COLUMBIA, 1 BACKGROUND AND LEGISLATIVE HISTORY OF H.R. 9056, H.R. 9682, AND RELATED BILLS CULMINATING IN THE DIST. OF COLUMBIA SELF-GOV'T AND GOV'T REORG. ACT, Serial No. S-4, at 3020 (1974) (the adopted open-meetings language “include[s] tapes and transcriptions thereof”).